

REMARKS / ARGUMENTS

In the above-mentioned Office Action, all of the pending claims, claims 1-10, were rejected. Claims 1, 3-4, and 6-9 were rejected under Section 103(a) over the combination of Longoni, a TSG-RAN Working Group 2 document, and Vialen. And, claims 2, 5, and 10 were rejected under Section 103(a) over Longoni, the TSG-RAN document, Vialen, and well known prior art considered to be well-known.

Responsive to the rejection of the claims, independent claims 1, 3, and 8 have been amended in manners believed better to distinguish the invention of the present application over the cited combinations of references.

Support for the amendments is found in the specification, e.g., in Figures 6 and 7 and their corresponding descriptions in paragraphs [0029] and [0031], respectively as well in Figure 9, step s230 corresponding paragraph [0040], in Figure 10 and its corresponding description in paragraph [0042], in Figure 11 and its corresponding description in paragraph [0045] and analogously in Figures 12-15 and their corresponding descriptions.

In the rejection of the independent claims, the Examiner acknowledged that Longoni fails to disclose a (re)configuration command that is received from a communication system and that Longoni also fails to disclose the delaying of initiation of the cell update until the reconfiguration has been applied. The Examiner, however, relied upon the TSG-RAN document for the delaying initiation of the cell update and upon Vialen for disclosing a communication system that sends a reconfiguration command.

The Applicants traverse the rejections of the claims, particularly as now-presented.

Longoni fails to disclose the receiving of a reconfiguration command from a communication system, as acknowledged by the Examiner. And, while Vialen was cited for disclosing a communication system sending a reconfiguration command, there is no

disclosure in Vialen of a reconfiguration command that includes an activation time at which a reconfiguration is to be applied. The cited section in column 11 states that a bearer reconfiguration request comprises one or more bearer identifiers BID and corresponding qualities of service BEARER QOS for the RNL of the terminal. And, the section further states that message comprises a ciphering algorithm. None of a bearer identifier, quality of server, or ciphering algorithm are equivalent to an activation time. The Applicants also believe that no inference can be drawn that Vialen discloses a reconfiguration command including an activation time, as recited in the independent claims.

And, while the Examiner relies upon Longoni for disclosing a reconfiguration command, all be it not sent from a communication system, the Applicants believe that Longoni wholly fails to disclose a reconfiguration command within the meaning of the term used in the relevant art, that set forth 3GPP TS25.331v3.15.0 Section 8.2.2.1. A copy of this document was previously submitted together with the Applicants' response to the Office Action dated February 6, 2008. This section states that, "reconfiguration procedures include the following procedures: the radio bearer establishment procedure; radio bearer reconfiguration procedure; the radio bearer release procedure; the transport channel reconfiguration procedure; and the physical channel reconfiguration procedure.

Longoni fails to disclose any of these procedures and, therefore, does not disclose the receiving, at the user equipment, a reconfiguration command that would be within the meaning used in the relevant art, nor of such a command that includes an activation time at which a reconfiguration is to be applied. Sections cited by the Examiner, paragraphs [0003], [0004], and [0009], in fact, refer to a cell update request message sent by an MS, not a reconfiguration command received at a user equipment.

The Applicants further note that the procedure set forth in Longoni does not pertain to a reconfiguration procedure. Exemplary claim 1 of the present application recites both a "cell update" and a "reconfiguration procedure". These are separate recitations and, as indicated in

the recitation of the delaying initiation of the cell update until the reconfiguration has been applied in exemplary claim 1 indicates that reconfiguration is applied and then cell update is initiated. The cell update procedure of Longoni does not relate both to a reconfiguration procedure and a cell update. At best, Longoni can only pertain to a cell update procedure.

The Applicants additionally traverse the Examiner's statement that a reconfiguration process inherently includes an activation time. As noted above, Longoni does not disclose a reconfiguration command; Longoni can only disclose a cell update procedure. But, in any event, Longoni fails to mention an activation time for the cell update, and, contrary to the Examiner's statement, an activation time is not an inherent feature of a cell update, and therefore an activation time is not disclosed by Longoni. The Applicants submit that cell update procedures do not require an activation time. While it might be possible that the cell update procedure of Longoni *could* have an activation time, there is no disclosure of this. Although Longoni does disclose a cell update procedure, this does not mean that an activation time necessarily flows from the teaching of this document. Thus, an activation time is not an inherent feature of Longoni. And, the Applicants note that MPEP § 2112 Section IV indicates the possibility that a characteristic might be in the prior art is not sufficient to establish the inherency of that characteristic. This section further quotes from *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990), stating, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art."

A cell update procedure relies on a sequential exchange of messages, i.e., a cell update from the UE to a UTRAN followed by a cell update confirm from the UTRAN to the UE. Figure 7, e.g. of the present application shows that the activation time s24 is received at s21 with the reconfiguration command that is sent from the UTRAN to the UE. A cell update procedure does not require an activation time, Longoni does not disclose an activation time,

and Longoni does not disclose a reconfiguration command including an activation time at which a reconfiguration is to be applied.

Furthermore, Longoni fails to disclose delaying initiation of the cell update until the reconfiguration has been applied. While the Examiner states that Longoni does not specifically disclose this feature, the Applicants assert that Longoni fails to infer, or even to hint at, such a feature.

Further, with respect to the TSG-RAN document, the Applicants traverse the Examiner's statement that "delaying initiation of the cell update until the reconfiguration has been applied is a well-known update process in 3GPP systems such as TSG#2(99)181 discloses". This document, however, states that "normally, the [cell update] procedure is triggered after change of cell and after the UE has read information broadcasted by UTRAN". So, at best, this document can merely be stated to give a description of a cell update procedure. And, this cell update procedure is, e.g., the same cell update procedure of Longoni. Further, the document explains the triggers for a cell update procedure, which may be said to relate to the claimed feature of "detecting a trigger event which indicate that a cell update is required", in which case, it cannot also relate to "delaying initiate update of the cell update until the reconfiguration has been applied", and so this feature is also believed not to be disclosed in the document.

For analogous reasons, independent claims 3 and 8, as now-presented, are also believed to be patentably distinguishable over the cited combinations for the same reasons.

The dependent claims, which include all of the limitations of their respective parent claims, are believed to be distinguishable over the cited combinations for the same reasons given with respect to their parent claims.

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In light of the foregoing, therefore, independent claims 1, 3, and 8, and the dependent claims dependent thereon, are believed to be in condition for allowance. Accordingly, reexamination and reconsideration for allowance of these claims is respectfully requested. Such early action is earnestly solicited.

Respectfully submitted,

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